

Filed for intro on 02/09/95  
House Bill \_\_\_\_\_  
By \_\_\_\_\_

Senate No. SB1454  
By Person

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 11, to restrict the knowing solicitation of patients of home care organization.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. It shall be unlawful for any home care organization through its officers, directors, employees or agents to knowingly solicit patients currently being treated by another home care organization to change home care organizations.

SECTION 2.

(a) As used herein, the term "solicit" shall mean inducement, coercion, persuasion by any means; provided, however, nothing shall prohibit a home care organization from advertising its services so long as such advertising is not directed to specific patients.

(b) As used herein, the term "home care organization" shall have that meaning as set forth in Tennessee Code Annotated, Section 68-11-201.

(c) As used herein, the term "agent" shall not include a physician of a patient changing agencies.

SECTION 3. Nothing contained herein shall limit the right of a home care organization patient to change organizations at such time as the patient shall so choose, nor shall this act prohibit any home care organization from accepting for treatment or from discussing future treatment with any home care organization patient who is unsolicited by such home care organization and who voluntarily contracts such home care organization on his or her own seeking services from such home care organization or who responds to a public advertisement by such home care organization.

SECTION 4. A home care organization found in violation of Section 1 of this act shall be subject to one or more of the following:

(a) After notice and hearing before the Tennessee Board for Licensing Health Care Facilities:

- (1) A fine of \$1,000.00 payable to the Board for each violation;
- (2) Reprimand by the Board;
- (3) Suspension of the license of the organization; or
- (4) Revocation of the license of the organization.

(b) An injunction by either a Circuit or Chancery Court of competent jurisdiction prohibiting further solicitation. Such injunctive relief may be initiated by either the Tennessee Board for Licensing Health Care Facilities or any home care organization who has had its patients solicited by the offending organization. The offended organization may, in the Court's discretion, be awarded attorney's fees for bringing the action. The right to injunctive relief granted herein shall not prevent an offended organization from seeking monetary damages or any other relief against the offending organization to which it may be entitled at law or in equity.

Notwithstanding the provisions of any law to the contrary, with regard to any decision rendered by the Tennessee Board for Licensing Health Care Facilities pursuant to this act, on or after the effective date of this act, the decision shall include written documentation and explanation of the factual and legal basis for such decision.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.